

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

RAMATU HAYES,

Plaintiff,

-against-

THE CITY OF NEW YORK, and CAPT. DUSENAKO,  
LT. LAWRENCE HAMMOND, DETECTIVE ROBERT  
JOHNSON, DET. DOUGLAS GORMAN, DET.  
BATTAGLIA, DET. CAMMARADA, DET. JAMES  
MEEHAN, P.O. JAMA JOSEPH,

Defendants.

----- X

**ANSWER TO FIRST  
AMENDED COMPLAINT ON  
BEHALF OF THE CITY OF  
NEW YORK, DET. ROBERT  
JOHNSON, DET. DOUGLAS  
GORMAN, DET. JAMES  
MEEHAN, DET. FRANK  
BATTAGLIA, AND P.O.  
JAMA JOSEPH**

06 CV 13582 (DAB)

JURY TRIAL DEMANDED

Defendants City of New York, Johnson, Gorman, Meehan, Battaglia and Joseph,<sup>1</sup>  
by their attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their  
answer to the complaint, respectfully allege, upon information and belief, as follows:

1. Deny the allegations set forth in paragraph “1” of the complaint, except  
admit that plaintiff purports to proceed as stated therein.
2. Deny the allegations set forth in paragraph “2” of the complaint, except  
admit that plaintiff purports to bring this action and invoke the jurisdiction of this Court as  
stated therein.
3. Deny the allegations set forth in paragraph “3” of the complaint, except  
admit that plaintiff purports to demand a trial by jury as stated therein.

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<sup>1</sup> Upon information and belief, and a review of the docket sheet, the individuals identified in the caption as Captain Dusenako, Lieutenant Lawrence Hammond, and Detective Cammarada have not been served with process to date.

4. Deny the allegations set forth in paragraph "4" of the complaint, except admit that plaintiff purports to base venue as stated therein.

5. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint.

6. Deny the allegations set forth in paragraph "6" of the complaint, except admit that the City of New York is a municipal corporation organized pursuant to the laws of the State of New York and that it maintains a police department.

7. Deny the allegations set forth in paragraph "7" of the complaint, except admit that Dusenako, Hammond, Johnson, Gorman, Battaglia, Cammarada, Meehan and Joseph are employed by the City of New York in the New York City Police Department and state that the allegation concerning whether they were acting "under color of law" constitutes a legal conclusion to which no response is required.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "8" of the complaint.

9. Deny the allegations set forth in paragraph "9" of the complaint.

10. Deny the allegations set forth in paragraph "10" of the complaint, except admit that a search was conducted.

11. In response to the allegations set forth in paragraph "11" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "10" of this answer as if fully set forth herein.

12. Deny the allegations set forth in paragraph "12" of the complaint. See Exhibit A, annexed hereto.

13. Deny the allegations set forth in paragraph "13" of the complaint.

14. In response to the allegations set forth in paragraph "14" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "13" of this answer as if fully set forth herein.

15. Deny the allegations set forth in paragraph "15" of the complaint.

16. Deny the allegations set forth in paragraph "16" of the complaint.

17. In response to the allegations set forth in paragraph "17" of the complaint, defendants repeat and reallege the responses set forth in paragraphs "1" through "16" of this answer as if fully set forth herein.

18. Deny the allegations set forth in paragraph "18" of the complaint.

19. Deny the allegations set forth in paragraph "19" of the complaint.

20. Deny the allegations set forth in paragraph "20" of the complaint.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

21. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

22. Defendants have not violated any rights, privileges or immunities secured to plaintiff by the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor have defendants violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

23. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and/or the intervening conduct of third parties, and was not the proximate result of any act of the defendants.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

24. At all times relevant to the acts alleged in the complaint, the duties and functions of defendant City's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City of New York is entitled to governmental immunity from liability.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

25. Plaintiff cannot obtain punitive damages as against the City of New York.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

26. Plaintiff's claims may be barred, in whole or in part, because plaintiff failed to comply with all conditions precedent to suit.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE**

27. The actions of any police officers involved were justified by probable cause.

**AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE**

28. The individually named defendants Johnson, Gorman, Battaglia, Meehan and Joseph have not violated any clearly established constitutional or statutory rights of which a reasonable person would have known and therefore are protected by qualified immunity.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

29. At all times relevant to the acts alleged in the Complaint, defendants acted reasonably in the proper and lawful exercise of their discretion.

**AS AND FOR A TENTH AFFIRMATIVE DEFENSE:**

30. To the extent plaintiff asserts state law claims against defendants, such claims should be barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

**AS AND FOR A ELEVENTH AFFIRMATIVE DEFENSE:**

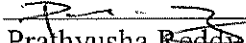
31. Plaintiff's claims may be barred in whole or in part by the applicable statute of limitations.

**WHEREFORE**, defendants request judgment dismissing the complaint in its entirety, together with costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
July 2, 2007

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for Defendants City of New York,  
Johnson, Gorman, Battaglia, Meehan and Joseph  
100 Church Street  
New York, New York 10007  
(212) 788-0963

By:

  
Prathyusha Reddy (PR 5579)  
Assistant Corporation Counsel  
Special Federal Litigation Division

TO: Michael L. Spiegel, Esq. (By ECF)  
Attorney for Plaintiff  
111 Broadway, Suite 1305  
New York, NY 10006

# **EXHIBIT A**

CRIMINAL COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE MATTER

OF

AN APPLICATION FOR A WARRANT  
AUTHORIZING A SEARCH OF APARTMENT 7H, ON  
THE SEVENTH FLOOR, IN PREMISES 2839 WEST  
33RD STREET, KINGS COUNTY, NEW YORK.

0475-2005.

SEARCH WARRANT NO:  
SPECIAL NARCOTICS COURT

AFFIDAVIT IN SUPPORT OF  
SEARCH WARRANT

Detective Robert Johnson, Shield 2586, being duly sworn, deposes and says:

1. I am a Detective in the NYPD, assigned to the Narcotics Borough Brooklyn South.
2. This affidavit is submitted in support of an application for a warrant to search apartment 7H, on the seventh floor, in premises 2839 West 33rd Street, Kings County, New York and the person(s) of J.D. Heavy, if present therein ("the target premises"), where there is reasonable cause to believe that evidence of the sale and possession of cocaine, and conspiracy to commit those crimes, will be found, including but not limited to:
  - a. cocaine, vials, caps, glassine envelopes, small ziplock-style bags, and other evidence of the possession and distribution of cocaine, including but not limited to paraphernalia used to process and distribute drugs, including but not limited to dilutants and scales, counter-surveillance equipment, and records and documents reflecting drug transactions;
  - b. currency and other evidence of proceeds from drug trafficking, including but not limited to financial records in any format, tending to demonstrate cash transactions or financial transfers derived from the possession of cash currency, money orders, bank receipts, stocks, bonds, bills and receipts for goods and services, documents relating to real estate holdings, and any title or registration to motor vehicles;
  - c. evidence of ownership and use of the target premises, or the use of property located therein by any person, including but not limited to keys,



telephone bills, utility bills, bank statements, leases, deeds, or rent receipts related to the target premises or other real property, mail addressed to or from the target premises, identification bearing the name or photograph of any person, telephone books, address books, date books, calendars, personal papers, and videotapes and photographs of persons.

3. As set forth below, there is reasonable cause to believe that the above described property is located within the target premises; moreover as set forth below, there is reasonable cause to believe that this property constitutes evidence or tends to demonstrate that an offense was committed, or that a particular person participated in the commission of said offense.

4. The Narcotics Division has received 1 civilian complaint that controlled substances are being possessed at the target premises. This communication is recorded under complaint number 5009995, dated 6/21/2005, which states that via 911: Male caller states drugs are being sold at 2839 West 33rd Street, apartment 7H, on the 7th floor.

5. I have spoken to a confidential informant who is registered with the NYPD under CI Number 22158 and he/she has a proven history of reliability based on his/her having provided reliable information on more than four occasions. For example, in April 2005, information provided by CI Number 22158 led to a search warrant that resulted in the seizure of marihuana, and the arrest of 2 individual(s); in April 2005, information provided by CI Number 22158 led to a search warrant that resulted in the seizure of paraphernalia, and the arrest of 1 individual(s); in April 2005, information provided by CI Number 22158 led to a search warrant that resulted in the seizure of controlled substances, confirmed to be cocaine, and the arrest of 3 individual(s); and in March 2005, information provided by CI Number 22158 led to a search warrant that resulted in the seizure of controlled substances, confirmed to be cocaine, marihuana, and the arrest of 4 individual(s).

6. My informant is a former user cocaine and associate of narcotics traffickers and has had experience in the illegal narcotics trade. My informant recognizes the paraphernalia commonly used in the cutting and packaging of cocaine and can recognize cocaine by its appearance.

7. CI Number 22158 informs me that controlled substances are being sold and possessed in the target premises. The confidential informant's basis of knowledge is as follows:

8. On [REDACTED], during the [REDACTED] hours, C.I. #22158 made a controlled buy of crack cocaine from apartment 7H, on the seventh floor, in premises 2839 West 33rd Street. On this date C.I. #22158 was searched for contraband by the affiant with negative results and given \$10.00 United States. C.I. #22158 was accompanied by the affiant and other members of the New York City Police Department to the vicinity of 2839 West 33rd Street and observed entering the target building. Shortly thereafter C.I. #22158 exited the target building and returned to the designated meet location. Once thereat C.I. #22158 handed the affiant one (1) zip lock bag containing a white rock like substance and was again searched by the affiant with negative results. C.I. #22158 then recounted the following to the affiant: C.I. #22158 entered the target location and knocked on the door of apartment 7H which was answered by J.D. Heavy (described as male black, approximately 30 years of age, with a heavy built) who C.I. #22158 engaged in a brief narcotics related conversation. Following the conversation C.I. #22158 handed the affiant \$10.00 United States currency. C.I. #22158 then observed J.D. Heavy close the door of apartment 7H and reopen it shortly thereafter handing C.I. #22158 one (1) zip lock bag containing a white rock like substance.

- a. Based on his/her experience in the narcotics trade, the informant believes the white rock like substance purchased on the above occasion was crack cocaine.

Furthermore, said purchase was field tested with positive results for crack cocaine.

9. In view of the fact that the property sought to be seized can be easily and quickly disposed of or destroyed, and because giving notice may endanger the lives and safety of the executing officers and others, it is further requested that the officer executing the warrant be permitted to enter without prior notice of authority or purpose. The reasons for my belief are as follows: the targets of the search warrant are reasonably likely to be present at the time of the execution of the search warrant; deponent's experience with or knowledge of the destruction of drugs during narcotics-related arrests and the execution of narcotics warrants, to wit: as a narcotics investigator, I have been present at numerous search warrant target apartments in which narcotics traffickers have attempted to dispose of their contraband by throwing it out of a window, flushing it down a toilet, or washing it down the sink while the police attempted to gain entry into the apartment; the location is being used for drug distribution on an ongoing basis and it is therefore reasonably likely that the targets have taken precautions to destroy the illegal drugs.

WHEREFORE, I respectfully request that the Court issue a warrant and order of seizure in the form annexed, authorizing a search of apartment 7H, on the seventh floor, in premises 2839 West 33rd Street, Kings County, New York and the person(s) of J.D. Heavy, if present therein, for the above described property, and directing that if such property or evidence or any part thereof be found that it be seized and brought before the Court. It is also requested that the officers executing the warrant be permitted to enter the above premises without giving prior notice of authority and purpose. Authorization is also requested that if the court examines the

confidential informant, that examination be incorporated as part of this affidavit and sealed pending further order.

No previous application in this matter has been made to any other judge, justice, or magistrate.

False statements made herein are punishable as a class A misdemeanor pursuant to §210.45 of the Penal Law.

Det Robert Johnson  
OFFICER

APPROVED: Robert Kauffman  
Assistant District Attorney

Target Location: apartment 7H, on the seventh floor, in premises 2839 West 33rd Street, Kings County, New York.

Sworn to before this

30th day of June 2005

TIME: 11:40 AM

Laura A. Ward  
JUDGE OF THE CRIMINAL COURT  
HON. LAURA WARD

CRIMINAL COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK  
TO ANY POLICE OFFICER IN THE CITY OF NEW YORK

Proof by affidavit having been made this day before me by Detective Robert Johnson, Shield 2586, that there is reasonable cause for believing that certain property, to wit:

- a. cocaine, vials, caps, glassine envelopes, small ziplock-style bags, and other evidence of the possession and distribution of cocaine, including but not limited to paraphernalia used to process and distribute drugs, including but not limited to dilutants and scales, counter-surveillance equipment, and records and documents reflecting drug transactions;
- b. currency and other evidence of proceeds from drug trafficking, including but not limited to financial records in any format, tending to demonstrate cash transactions or financial transfers derived from the possession of cash currency, money orders, bank receipts, stocks, bonds, bills and receipts for goods and services, documents relating to real estate holdings, and any title or registration to motor vehicles;
- c. evidence of ownership and use of the target premises, or the use of property located therein by any person, including but not limited to keys, telephone bills, utility bills, bank statements, leases, deeds, or rent receipts related to the target premises or other real property, mail addressed to or from the target premises, identification bearing the name or photograph of any person, telephone books, address books, date books, calendars, personal papers, and videotapes and photographs of persons.

which is evidence of the possession of narcotics and the means of committing a narcotics crime, may be found in apartment 7H, on the seventh floor, in premises 2839 West 33rd Street, Kings County, New York and on the person(s) of J.D. Heavy, if present therein, and that there are grounds for entry without giving notice of authority and purpose.

YOU ARE THEREFORE COMMANDED, between 6:00 a.m. and 9:00 p.m., without prior notice of authority or purpose, to make a search of apartment 7H, on the seventh floor, in premises 2839 West 33rd Street, Kings County, New York and of the person(s) of J.D. Heavy, if

present therein, for the above described property, and if you find such property or evidence or any part thereof to bring it before the court without unnecessary delay.

WARRANT MUST BE EXECUTED WITHIN (10) TEN DAYS OF DAY OF ISSUANCE

DATED IN THE CITY OF NEW YORK, this 30<sup>th</sup> day of June 2005

TIME: 11<sup>40</sup> PM

Laura Ward  
JUDGE OF THE CRIMINAL COURT  
HON. LAURA WARD

Target Location: apartment 7H, on the seventh floor, in premises 2839 West 33rd Street, Kings County, New York.

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CRIMINAL COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

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IN THE MATTER  
OF

AN APPLICATION FOR A WARRANT AUTHORIZING THE SEARCH OF APARTMENT  
7H, ON THE SEVENTH FLOOR, IN PREMISES 2839 WEST 33RD STREET, KINGS  
COUNTY, NEW YORK.

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BRIDGET G. BRENNAN  
SPECIAL ASSISTANT DISTRICT ATTORNEY  
80 Centre Street  
New York, New York 10013

SEARCH WARRANT # 0475-2005

CRIMINAL COURT OF THE STATE OF NEW YORK  
SPECIAL NARCOTICS PARTS  
COUNTY OF NEW YORK

AFFIDAVIT OF INVENTORY OF PROPERTY TAKEN  
UNDER SEARCH WARRANT # 0475 - 2005

STATE OF NEW YORK       )  
                                  )       SS.:  
COUNTY OF NEW YORK     )

I, Det. Robert Johnson, the officer

by whom the annexed warrant was executed, do swear that the  
attached Police Department Property Clerk Vouchers contain a  
true and detailed account of all property taken by me on the  
warrant.

ARREST NUMBER (S) :       N/A

VOUCHER NUMBER (S) :       N/A

Det. Robert Johnson  
OFFICER

Sworn to before me this

19 day of July, 2005

K. L. Lupuloff  
JUSTICE OF THE CRIMINAL COURT

HON. LUPULOFF  
AR 1 7/19/05  
CT REP MILUS

NYC

90





WARRANT TRACKING SYSTEM -  
PRE-WARRANT DATA ENTRY FORM  
(Rev. 07/2003b)

**PRE**

THIS FORM MUST BE TYPED

I.D.S. No.: 20050708000102  
(Supplied by Intel. Div. - C.I.S.)

This form must be completed in detail before a warrant may be executed. Warrant will not be processed with blanks or omissions on form.  
MAKE NOTE OF I.D.S. NUMBER ON RETURN FAX! ENTER I.D.S. NUMBER IN CAPTION ON POST-WARRANT FORM!

**REQUESTING OFFICER (Affiant)**

Rank: DET Last Name: JOHNSON First Name: ROBERT  
Contact No.: 718-921-4040 Pager: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Fax: 718-921-4045  
Agency: NYPD Command: BSNDI Command Telephone: 718-921-4040  
Shield: 2586 Tax Number: \_\_\_\_\_ Soc. Sec. No. (non-NYPD only): \_\_\_\_\_

**SUPERVISING OFFICER**

Rank: LT Last Name: HAMMOND First Name: LAWRENCE  
Supervisor's Command: BSNDI Contact No.: 718-921-4040

**WARRANT INFORMATION**

<p>Warrant Type: <input type="checkbox"/> Arrest Subpoena <input type="checkbox"/> Federal Search Warrant</p> <p><input type="checkbox"/> Federal Seizure Warrant <input type="checkbox"/> Grand Jury Subpoena</p> <p><input checked="" type="checkbox"/> Local Search (Select County of Issuance, below)</p> <p><input type="checkbox"/> State Seizure Warrant <input type="checkbox"/> State Subpoena</p>	<p>Date Applied/Obtained: <u>06/30/05</u> ADA Assigned: <u>KAYOR</u></p> <p>Issuing Judge: <u>WARD</u></p> <p>UDECS Number (required): <u>2005/019744</u></p> <p>Warrant / Docket #: <u>0475/2005</u></p>	<p><b>Reason for Warrant:</b></p> <p><input checked="" type="checkbox"/> C.I. Info/C.I. Buy</p> <p><input type="checkbox"/> Investigative Follow-Up</p> <p><input type="checkbox"/> Officer Plain View Observation</p> <p><input checked="" type="checkbox"/> Other: <u>KITE</u></p> <p><input type="checkbox"/> U/C Buy</p>
<p><b>County of Issuance:</b></p> <p><input type="checkbox"/> BX <input type="checkbox"/> Q</p> <p><input type="checkbox"/> K <input type="checkbox"/> R</p> <p><input checked="" type="checkbox"/> NY</p>	<p><b>Warrant Exceptions:</b></p> <p><input checked="" type="checkbox"/> No Knock</p> <p><input type="checkbox"/> After Hours</p> <p><input type="checkbox"/> Other: _____</p>	

**WARRANT LOCATION (SPECIFIC)**

Location Type: MULTIFAMILY DWELLING

Public Housing?: ☒

Street No.: 2839 Street Name: WEST 33rd STREET Apt No.: 7H

City: BROOKLYN State: NY ZIP: 11224

Cross Streets: NEPTUNE AVE - MERMAID AVE County: KINGS

Location Description: NYCHA BUILDING

**WARRANT OBJECTIVE(S)**

☒ Narcotics ☐ Other (specify in NOTES) ☐ Person ☐ Stolen Property (specify in NOTES) ☐ Weapons

NOTES (specify other warrant type, reason, exception, other objective, stolen property sought, etc.)

This form must be faxed to (646) 805-6292. Information/requests WILL NOT be accepted by telephone. Attach copy of warrant.

05/28/2005 12:57 FAX 0460006290

SDU-UDEC5

0004/003



WARRANT TRACKING SYSTEM -  
POST-WARRANT DATA ENTRY FORM  
PD374-143A (06/05 Initial)

**POST**  
THIS FORM MUST BE TYPED

I.D.S. No.: 20050708000102  
(As supplied by Intel. Div. - C.I.S.)

This form must be completed in detail WITH ID# NUMBER after a warrant has been executed. Warrant will not be processed with blanks or omissions on form.

**REQUESTING OFFICER (Affiant - MUST Match From Original Pre-Warrant)**

Rank: DET Name: Robert Johnson Tax/BSN: [REDACTED] Cmd: BSNDI Fax: 718-921-4040

**WARRANT LOCATION**

Address: 2839 W 33 street

Apt No.: 7H

(MUST Match From  
Original Pre-Warrant)

City: Brooklyn

State: NY

ZIP: 11224

**EXECUTION INFORMATION**

☐ Unexecuted

Executing Unit: BSNDI

Date Executed: 07/09/05

Time Executed: 0600

**EXECUTING SUPERVISOR**

Rank: Lt Last Name: Hammond First Name: Lawrence Contact: 718-921-4040

**WARRANT RESULT (check one):**

- ☐ POSITIVE No. of Arrests: Entry Unit: \_\_\_\_\_
- ☐ NEG. - Bad C.I. Info (C.I. No.: \_\_\_\_\_)
- ☒ NEG. - Evidence Not Found
- ☐ NEG. - Wrong Door

Special Tactical Device(s) Used?: ☐ (specify in DETAILS)

**ENTRY SUPERVISOR**

Rank: Lt Last Name: Hammond First Name: Lawrence Contact: 718-921-4040

**WARRANT LOCATION**

WRONG DOOR ☐

**EVIDENCE RECOVERED**

Traps Found? ☐ TYPE: LOCATION: \_\_\_\_\_

☐ Narcotics ☐ Other Contraband (specify in DETAILS) ☐ Other Property (specify in DETAILS) ☐ Weapons

If evidence recovered, describe specific seizure (i.e., 2 vials crack cocaine): \_\_\_\_\_

**OTHER INTELLIGENCE OR INCIDENT INFORMATION (specify all positive information in DETAILS):**

Animals at Location? ☐ Subject Resistance ☐ Flight

Building Plans on File? ☐ During Entry: ☐ None

Fortified Door? ☐ ☐ Other \_\_\_\_\_

Did Subject Use Counter Intelligence? ☐ ☐ Physical Attack

Warrant Returned to Court ☐ ☐ Physical Resistance

M.O.S. Injured? ☐

Civilians Injured? ☐

**DETAILS:** (special tactical device/distractor device used, percussion grenade, MOS firearms discharged, traps, resistance, etc.)

This form must be faxed to (646) 805-6290. Information/requests WILL NOT be accepted by telephone.

Det.  
Johnson

## Incident File Report

Pre Warrant ( Incident Number: 20050708000102 )

← IDS#

Location  
Precinct/Jurisdiction(s) (060, "Has warrant to enter")  
(Precinct/Jurisdiction,  
"Role(s)");

p.o. Cutrona (Intel) notified

Occurrence Begin:	Incident Type: Warrant
Occurrence End:	Task Force:
Discovered Date: 07/08/2005	Reported By: JOHNSON, ROBERT
Reported Date: 07/08/2005	Classification: Highly Sensitive
Author Name:	Author Facility:
Information Type:	Source of Information:
Evaluation of Source:	Evaluation of Information:

## Narrative Summary:

DEC5 Number: 2005-019744; Warrant/Docket Number: 0475/2005

## Warrant

<ul style="list-style-type: none"> <li>Local Search Warrant</li> </ul>	
DEC5 Number: 2005-019744	County Issued: New York
Warrant Number: 0475/2005	Warrant Date: 06/30/2005
Signed By: WARD	District Attorney: KAYOR
Warrant Reasons: <ul style="list-style-type: none"> <li>• C.I.</li> <li>• Information/Buy</li> <li>• Other</li> <li>( KITE )</li> </ul>	Warrant Exceptions: <ul style="list-style-type: none"> <li>• No Knock</li> </ul>
REQUESTING OFFICER	
Rank / Name: Detective ROBERT JOHNSON	Contact Number: (718)921-4040
Agency: NYPD	Command: NARCOTICS BOROUGH BROOKLYN SOUTH
Identification Number: [REDACTED]	Identification Type: Tax Number
SUPERVISING OFFICER	
Rank / Name: Lieutenant LAWRENCE HAMMOND	Contact: (718)921-4040
LOCATION	
Address: Residence 2839 West 33 Street Apartment 7H BROOKLYN NY, 11224 Brooklyn South, 060	Warrant Objectives: <ul style="list-style-type: none"> <li>• Narcotics</li> </ul>
Cross Street Name: NEPTUNE AVE-MERMAID AVE	County: Kings

[https://192.168.39.153/inv/templates/Common/Common\\_PrintPreview.cfm?MainObjectTy...](https://192.168.39.153/inv/templates/Common/Common_PrintPreview.cfm?MainObjectTy...) 7/8/2005



# **NARCOTICS DIVISION SEARCH WARRANT TRACKING REPORT**

WARRANT STATUS:

☒ EXECUTED    ☐ NOT EXECUTED

Date of Report: 07/10/05

Narcotics Borough: BSNDI

Narcotics Borough Log #

Court S/W # Man. Crim/0475

Precinct Narcotics Module: 060

Or Squad:

Affiant Name: Det Robert Johnson

Affiant Tax Num: [REDACTED]

Affiant Phone: 718-921-4040

DECS #:

Date Warrant Issued: 06/30/05

Planned Execution/TAC Date: 07/09/05

Warrant Type: NARCS

Warrant Generated by:

TAC Meeting Time: 0500

☒ Narcotics

X 1 2 3 4 5 6

Date Warrant Executed: 07/09/05

☐ Firearms

Related Information (Enter All That Applies)

Time Warrant Executed: 0600

☐ Other

1. Confidential Informant # 260

Tour of Duty: 0445X-1300

No-Knock?

Controlled Buy #

☒ Yes ☐ No

2. Buy Operation #

Kite Inv. Pct

61#

Information Accurate?

Night Endr.?

3. Emergency

\*Explain in Details

☐ Yes ☐ No

4. U/C Buy 5. U/C Observation

☐ Yes ☐ No

6. Other

Location Precinct: 060

Address of Warrant: 2839 W 33 st

Apt./Spec Loc: 7H

Premise Type:

☒ HOUSING ☐ HPD☐ RESIDENCE

Non Housing Authority

☐ COMMERCIAL

PREMISE

Specify type of store:

IS THE PREMISE A NUISANCE ABATEMENT LOCATION?

☒ NO ☐ YES IF YES # OF INCIDENTS:

Previous Search Warrant at Location?

☐ Yes ☒ No**Arrest Information**

Volded Arrests:

Total Arrested: 0

# ID'd as Gang Members:

UF 250s Prepared:

**Property and Quantity Seized (Enter Approximate Weight in Grains)**

Cocaine:

Heroin:

Other Drugs:

Crack:

Marijuana:

Currency:

Paraphernalia:

# of Firearm(s):

☐ Other Evidence:**Warrant Results**☐ Positive☒ Negative☐ Returned Unexecuted \*explain in Details**MOS Information**

Name

Tax Number

Phone

Captain Conferred with:

Dusenako

Ranking Officer on the scene:

Lt. Hammond

Module Supervisor:

Lt Hammond

Officer Executing Warrant:

Det Robert Johnson

**Notifications**

Member Notified

Date

Time

On Scene

Occb Inspections Unit:

FOD:

K-9:

Narc Group Concerned\*:

\*If executed outside assigned area

Other:

ESU-on-Scene

☐ Yes - Entry☐ Yes - No Entry☐ No

Additional Details: (Unusual occurrences require a separate UF-49)

Prepared By:

Date:

Phone:

ORIGINAL TO FILE (NARCOTICS BOROUGH), Copy to Narcotics Division, Inspections Unit, Precinct C.O.

Data Entry

Pre-Warrant by:

Date:

Time:

PostWarrant by:

Date:

Time:

rev. date 061803

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**SEARCH WARRANT PLAN  
PRE-EXECUTION**  
 PD 374-150 (5-82) PAGE 1

Date SW Obtained <b>06/30/05</b>	B.O./Case No. <b>3130</b>	Div. Serial No. <b>1796</b>	Command <b>BSNDI</b>	Command Serial No. <b>093</b>
SW Obtained By <b>DET ROBERT JOHNSON</b>	From Court (County) <b>NEW YORK</b>	Court Warrant No. <b>0475/2005</b>	Tactical Plan Ranking Officer in Charge <b>DET ROBERT JOHNSON</b>	

PERSONNEL	SPECIFIC ASSIGNMENT	SUPERVISED BY	EQUIPMENT	YES NO <input type="checkbox"/> <input checked="" type="checkbox"/>
Capt Dusenako	Overall Super.			<input type="checkbox"/> <input checked="" type="checkbox"/>
Lt. Hammond	Entry Supervisor			<input type="checkbox"/> <input checked="" type="checkbox"/>
Det. Gorman	Bunker	Lt. Hammond	Bunker	<input type="checkbox"/> <input checked="" type="checkbox"/>
Det. Johnson	Bunker security	"	Heavy vest	<input type="checkbox"/> <input checked="" type="checkbox"/>
Det. Battaglia	Ram	"	Ram	<input type="checkbox"/> <input checked="" type="checkbox"/>
DET. Cammarada	Hydrokick ram	"	Hydrokick ram	<input type="checkbox"/> <input checked="" type="checkbox"/>
Det. Meehan	Cuff & Toss	E	Hand cuffs	<input type="checkbox"/> <input checked="" type="checkbox"/>
PO Joseph	Cuff & Toss	"	Hand cuffs	<input type="checkbox"/> <input checked="" type="checkbox"/>
PO Dunphy	Animal control	"	Fire extinguisher	<input type="checkbox"/> <input checked="" type="checkbox"/>
DET Davison	Hall security	"		<input type="checkbox"/> <input checked="" type="checkbox"/>
PSA-#1	Hospital Auto	"		<input type="checkbox"/> <input checked="" type="checkbox"/>
PSA-#1	Outside security	"		<input type="checkbox"/> <input checked="" type="checkbox"/>
UC# 3215	observ. windows	"		<input type="checkbox"/> <input checked="" type="checkbox"/>
UC# 11392	observ windows	"		<input type="checkbox"/> <input checked="" type="checkbox"/>
UC# 10186	observ. windows	"		<input type="checkbox"/> <input checked="" type="checkbox"/>
DET Bono	recorder			<input type="checkbox"/> <input checked="" type="checkbox"/>
				<input type="checkbox"/> <input checked="" type="checkbox"/>
				<input type="checkbox"/> <input checked="" type="checkbox"/>
				<input type="checkbox"/> <input checked="" type="checkbox"/>

Shotgun Authorization By	Radio Disp. NTFD <input type="checkbox"/> YES <input type="checkbox"/> NO	Officer Assigned "Area" Portable Radio	Reconnaissance of Area Performed By <b>Det Robert Johnson</b>
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Potential Hazards — Problems

possible weapons and destruction of evidence.

LOCATION	Exact Address of Building <b>2839 West 33 streett Brooklyn NY ap6# 7H</b>		Floor <b>7</b>	Apt No. <b>7H</b>		
	Distinctive Markings - Location of Address Number <b>Building is marked 2839 W 33 street and XXXXXXXXX</b>					
	Exterior Door Construction - Distinctive Markings <b>Target door is grey in color &amp; metal</b>	Alarm <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Peep Hole <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Locks <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Fire Escape <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Rear Exit <input type="checkbox"/> YES <input type="checkbox"/> NO
	Interior Door Construction - Distinctive Markings	Alarm <input type="checkbox"/> YES <input type="checkbox"/> NO	Peep Hole <input type="checkbox"/> YES <input type="checkbox"/> NO	Locks <input type="checkbox"/> YES <input type="checkbox"/> NO	Fire Escape <input type="checkbox"/> YES <input type="checkbox"/> NO	Rear Exit <input type="checkbox"/> YES <input type="checkbox"/> NO
NOTIFICATION	Indicate Public Information Officer, Outside Agencies e.g. IAD, IRS, Housing Police, etc.					

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SEARCH WARRANT PLAN  
PRE-EXECUTION  
PD 374-150 (5-82)

PAGE 2

B.O./Case No. 3130

Div. Serial No. 1796

Command BSND1

Command Serial No. 093

DIAGRAM: (Include Exterior Street Area, Hallway and Apartment Layout. Indicate Expected Position of Personnel)

SEE ATTACHMENT

DETAILS OF MANNER OF EXECUTION:

Set-up location will be West 37th street and Neptune ave. Once all vehicles are lined up, procession will go onto Neptune ave and proceed to West 33rd street. Make right turn onto West 33rd street and stop equal to the walkway of the target location (2839 W33rd st). Exit vehicles and enter the lobby. Take elevators to the 7th floor and upon exiting make right off of the elevator and a right down the hallway. The target apartment will be facing you. Apartment 7H is the only metal grey door on the floor.

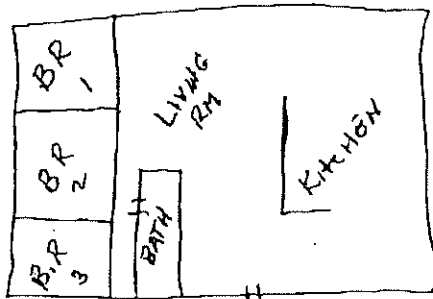
Once entry team is lined up and entry equipment is in place the search warrant will commence.

IF ADDITIONAL SPACE NEEDED - USE COMPLAINT FOLLOW-UP INFORMATIONAL PD 313-081B

SUPERVISOR PREPARING PLAN		APPROVING SUPERVISOR	
Rank and Name - Printed	Signature	Rank and Name - Printed	Signature
Lt. Lawrence Hammond		Capt. Dusinanko	


**SEARCH WARRANT PLAN  
POST-EXECUTION**  
PD 374-150A (5-82)
Date Executed  
07/09/05B.O./Case No.  
3130Div. Serial No.  
1796Command  
BSNDICommand Serial No.  
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DIAGRAM OF PREMISES - Indicate on Floor Plan Location of Prisoners and Evidence

**RESULTS:**

Prisoner/Room Area	Where Apprehended	Searched By	Supervised By	Voucher No. - Items Seized and Location

Premises Vacated By Officers At	Hours 0800	Personnel Last to Leave	Officer Det Robert Johnson	Supervisor Sgt Lt. Hammond
Premises Secured By		If Premises Not Secured - Indicate Bldg. Super or Owner Ntd.		

EQUIPMENT INVENTORY CONTROL VERIFIED RETURN OF EACH ITEM OF EQUIPMENT USED IN OPERATION		Signature	Torino
Search Warrant Return Made By Det Robert Johnson	Date 07/19/05	Judge HON. Lupuloff	

RECAPITULATION:	No. of Prisoners 0	Currency (Do Not Include Buy Funds) 0	Auto's N/A
Drugs (Approximate) NONE	Other	Forfeiture Proceeding <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Photos Taken <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
Bilbery <input type="checkbox"/> YES Attempt <input checked="" type="checkbox"/> NO	I.A.D. Log No.	Action Taken	

CRITIQUE: (Identify Problem Areas, Injuries, etc. and Corrective Action)

Index No. 06 CV 13582 (DAB)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RAMATU HAYES,

Plaintiff,

-against-

THE CITY OF NEW YORK, et al.,

Defendants.

**ANSWER TO FIRST AMENDED  
COMPLAINT ON BEHALF OF THE CITY OF  
NEW YORK, JOHNSON, GORMAN,  
BATTAGLIA, MEEHAN AND JOSEPH**

***MICHAEL A. CARDOZO***

*Corporation Counsel of the City of New York  
Attorney for Defendants Johnson,  
Gorman, Battaglia, Meehan, and Joseph  
100 Church Street  
New York, N.Y. 10007*

*Of Counsel: Prathyusha Reddy  
Tel: (212) 788-0963  
NYCLIS No.*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2007.*

*..... Esq.*

*Attorney for .....*